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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,562	01/10/2000	ZIGMANTAS L BUDRIKIS	10671-0001-2	5225
22850	7590	05/18/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			SCHULTZ, WILLIAM C	
		ART UNIT	PAPER NUMBER	
		2664	9	
DATE MAILED: 05/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/462,562	BUDRIKIS ET AL.
<b>Examiner</b>	<b>Art Unit</b>	
William C. Schultz	2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 March 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3,6,7,10-13,18 and 23 is/are rejected.

7)  Claim(s) 4,5,8,9,14-16,19-22,24-26 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 4, the rejection is withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,6,7,10-13,18,23 are rejected under 35 U.S.C. 102(e) as being anticipated by Robinett et al. [U.S. Pat. 6,351,474].

Regarding claims 1,6,11,17,23, Robinett et al. discloses a method of transmitting real time signals as digital data packets over a communications network, the method comprising:

providing first and second time stamps in each packet of a real time signal required to be transmitted, (col. 6, lines 7-26)

said first time stamp indicating the elapsed time of the real time information represented by the data carried in the packet and (**col. 3, lines 34-43; col. 17, lines 53-57**)

said second time stamp indicating a time at which assembly of the packet at a source had occurred, and (**col. 3, lines 29-31; col. 17, lines 13-15**)

wherein said time stamps are derived from a universal time measure available to the source, a destination and routing points in the network whereby, in use, timely transfer en route and time-faithful reconstruction of the real time signal at the destination is possible. (**col. 11, lines 49-64; col. 14, lines 19-23; col. 48, lines 29-37; col. 48, lines 60-68**)

Regarding claim 2, Robinett et al. further discloses said first and second time stamps are provided in the form of binary integers in a header extension containing fields for said first and second time stamps. (**col. 3, lines 34-43 – since it is a digital transmission, the transmission is inherently using binary numbers**)

Regarding claim 3, Robinett et al. further discloses said header extension further includes a field indicating that the packet is on a real time connection and a field indicating whether a packet is at the start of a real time episode or a continuation of a real time episode. (**col. 17, lines 45-46**)

Regarding claim 7, Robinett et al. further discloses said means for inserting first and second time stamps includes a header extension generating means for generating a header extension for each packet of said real time signal, said header extension containing fields for said first and second time stamps. (**fig. 2, part 114**)

Regarding claim 10, Robinett et al. further discloses said header extension generator means also generates additional fields for indicating that the packet is on a real time connection and whether the packet is at the start of a real time episode or a continuation of a real time episode in said header extension. (**fig. 2, part 114; col. 17, lines 45-46**)

Regarding claims 12,18, Robinett et al. further discloses means for imposing an enforced wait in the timing of dispatch of a first packet by a predetermined time interval selected to be short enough to introduce an acceptable contribution by a routing apparatus to the total delay of the real time signal and long enough to provide sufficient time margins for the timely dispatch of subsequent packets. (**col. 7, lines 26-36, lines 42-47**)

Regarding claim 13, Robinett et al. further discloses means for confirming that a packet is the next successive packet in sequence of the real time signal by comparing its first time stamp with a combination of the first and second time stamps of the previous packet. (**col. 7, lines 47-49**)

#### ***Allowable Subject Matter***

Claims 4,5,8,9,14-17,19-22,24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 3/1/2004 have been fully considered but they are not persuasive.

**1) "Robinett et al. fails to disclose the first time stamp" .**

The citation says,

thus, the decoder must be able to recover the original encoder system time clock in order to be able to decode each ES and present each decoded ES in a timely and mutually synchronized fashion. To that end, time stamps of the system time clock, called program clock references or "PCRs," are inserted into the payloads of selected transport packets (specifically, in adaption fields). The decoder extracts the PCRs from the transport packets and uses the PCRs to recover the encoder system time clock.

The response just says this is not the first time stamp but it clearly is the first time stamp. A PCR time stamp is the time when the data was encoded, so when the receiver gets the packet it just takes it's current clock and subtracts this PCR time stamp from it to ascertain the elapsed time. The claim says, " the first time stamp *indicating* the elapsed time of the real time information represented by the data carried in the packet". The spec however describes the time stamp as, "a number that indicates the interval of time that is spanned by the segment of signal represented in the payload of the given packet".(spec. pg. 7, lines 16-17) Unassuming as to which sentence is more ambiguous, The Examiner notes that an elapse of time cannot be presented in the past, it must be a calculated number in the present from a past number. That is to say that, in no way can the invention send out a packet that **KNOWS** how long it is going to take for it to be transmitted, therefore the only thing that the time stamp can be is as described in the Robinett reference and that is a system time stamp.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

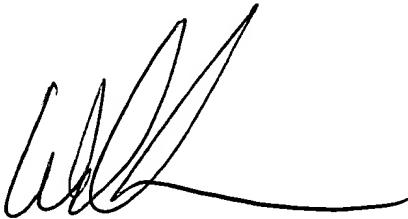
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Schultz whose telephone number is 703-305-2367. The examiner can normally be reached on M-F(7-4)(first bi-week) M-Th(7-4)(second bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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